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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JAMES LEONARD WATERS, JR.,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

Case No. 2:21-cv-01719-CDS-EJY

**Stipulation and Order**

**(Fifth Request)**

Pursuant to LR IA 6-1 and LR 26-3, the parties request an extension of certain discovery deadlines, as set forth in the table below. This is the fifth request for an extension of the discovery schedule in this medical malpractice case, although the original schedule provided some additional time; discovery commenced from the filing of the discovery plan rather than Defendant's first appearance. This stipulation, which is made within 21 days of the earliest deadline to be extended (for initial expert disclosures), is supported by the circumstances and good cause set forth below. In particular, and in light of a scheduled May 24, 2023, settlement conference, Plaintiff would like to defer, if not eliminate, certain expert witness costs that would otherwise be incurred in connection with the existing expert disclosure deadline of May 1, 2023. Plaintiff believes that the prospects for settlement improve with deferring or potentially eliminating such expert witness costs.

**DISCOVERY COMPLETED**

The parties have completed the following disclosures and discovery:

1. The parties served their initial disclosures in March and April 2022.
2. Defendant served a first set of Requests for Production and Interrogatories on Plaintiff on March 30, 2022.
3. Plaintiff served responses to such first set of discovery requests on April 22, 2022.
4. Plaintiff served a first set of Requests for Production, Requests for Admissions, and Interrogatories on Defendant on July 12, 2022.
5. Defendant served responses to such first set of discovery requests on September 14, 2022.
6. Plaintiff took the depositions of six of Defendant's employees (doctors and nurses) during the week of September 19, 2022.
7. Defendant requested and Plaintiff provided additional HIPAAs. Defendant continued the process of collecting medical records pursuant to HIPAAs.
8. Defendant served a second set of discovery requests on Plaintiff on October 20, 2022.
9. Defendant also sent Plaintiff a letter regarding certain categories of damages identified in Plaintiff's initial disclosures.
10. Plaintiff served responses to the second set of discovery requests on November 21, 2022.
11. Plaintiff also served supplemental disclosures including as to damages on November 28, 2022.
12. Plaintiff provided authorizations to obtain records from certain present and/or past employers.
13. Defendant has continued to gather medical and employment records pursuant to the more recent authorizations.
14. The parties have periodically supplemented their initial disclosures.

**DISCOVERY REMAINING**

Defendant will take the deposition of Plaintiff on May 9, 2023.

Initial and rebuttal expert disclosures remain.

The parties reserve the right to engage in any other discovery as permitted by applicable rule and within the discovery window including without limitation the depositions of expert witnesses.

**WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

Without waiver or admission by the parties, this is a medical malpractice case, and Plaintiff appears to have a complex, lengthy medical history. Plaintiff's alleged damages include past and future medical expenses and loss of income.

Defendant has continued the process of collecting medical records pursuant to HIPAAs, as well as employment records pursuant to authorizations. Some records were just provided in March 2023, and Defendant has included them in a recent supplemental production to Plaintiff. These recently obtained records, as well as others, are pertinent to the work of expert witnesses.

Although discovery is ongoing, this case has been set for a settlement conference on May 24, 2023. *See* ECF No. 37. Plaintiff believes that the prospects for settlement improve with deferring or potentially eliminating certain expert witness costs that would otherwise be incurred in connection with the existing May 1, 2023, deadline for initial expert disclosures. Accordingly, the parties propose to extend the deadlines for expert disclosures, as well as subsequent deadlines, as set forth in the table below.

The relatively small Civil Division of the U.S. Attorney's Office remains very busy, having three AUSA vacancies. The undersigned AUSA had been preparing for a trial, which was recently continued. *Wilson v. United States*, No. 2:18-cv-01241-JCM-NJK. The proposed schedule below also takes into consideration a time period during July 2023, when undersigned defense counsel will be on leave for family-related reasons.

**EXTENSION OF THE DISCOVERY PLAN AND SCHEDULING ORDER**

The following table sets forth the current deadlines and the proposed extended deadlines that are the subject of this stipulated request:

SCHEDULED EVENT	CURRENT DEADLINE	<del>PROPOSED</del> DEADLINE
Initial Expert Disclosures	May 1, 2023	June 26, 2023
Rebuttal Expert Disclosure	May 31, 2023	August 1, 2023
Discovery Cut Off	June 30, 2023	September 15, 2023
Dispositive Motions	July 31, 2023	October 13, 2023
Joint Pretrial Order	August 30, 2023	November 13, 2023 <sup>1</sup>

This request is submitted because of reasons and circumstances described above, not for purposes of undue delay.

Respectfully submitted this 18th day of April 2023.

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/s/ Danial Laird

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**IT IS SO ORDERED:**

  
UNITED STATES MAGISTRATE JUDGE

**DATED: April 18, 2023**

<sup>1</sup> However, if dispositive motions are filed, the proposed joint pretrial order will be due thirty days after the rulings on such dispositive motions.